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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 BRUCE WOLFE,

11 Plaintiff(s),

12 v.

13 CLARK COUNTY DEPARTMENT OF FAMILY  
14 SERVICES, et al.,

15 Defendant(s).

Case No. 2:17-cv-02084-JAD-NJK

ORDER

(Docket No. 43)

16 Pending before the Court is the parties' stipulated protective order pertaining to documents in  
17 the custody of Defendant Clark County Department of Family Services (Docket No. 43), which the  
18 Court approved to facilitate discovery in this case.<sup>1</sup> This order reminds counsel that there is a  
19 presumption of public access to judicial files and records. A party seeking to file a confidential  
20 document under seal must file a motion to seal and must comply with the Ninth Circuit's directives in  
21 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006).

22 The Court has adopted electronic filing procedures. Attorneys must file documents under seal  
23 using the Court's electronic filing procedures. *See* Local Rule IA 10-5. Papers filed with the Court  
24 under seal must be accompanied with a concurrently-filed motion for leave to file those documents  
25 under seal. *See* Local Rule IA 10-5(a).

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27 <sup>1</sup> On November 29, 2017, the Court granted the parties' stipulated protective order pertaining to  
28 documents in the custody of Defendants Oregon Department of Human Services and Washington  
Department of Social and Human Services. Docket No. 40.

1 The Court has approved the blanket protective order to facilitate discovery exchanges. But there  
2 has been no showing, and the Court has not found, that any specific documents are secret or  
3 confidential. The parties have not provided specific facts supported by declarations or concrete  
4 examples to establish that a protective order is required to protect any specific trade secret or other  
5 confidential information pursuant to Rule 26(c) or that disclosure would cause an identifiable and  
6 significant harm. The Ninth Circuit has held that there is a presumption of public access to judicial files  
7 and records, and that parties seeking to maintain the confidentiality of documents attached to  
8 nondispositive motions must show good cause exists to overcome the presumption of public access. *See*  
9 *Kamakana* 447 F.3d at 1179. Parties seeking to maintain the secrecy of documents attached to  
10 dispositive motions must show compelling reasons sufficient to overcome the presumption of public  
11 access. *Id.* at 1180. All motions to seal must address the applicable standard and explain why that  
12 standard has been met. The fact that a court has entered a blanket stipulated protective order and that  
13 a party has designated a document as confidential pursuant to that protective order does not, standing  
14 alone, establish sufficient grounds to seal a filed document. *See Foltz v. State Farm Mut. Auto. Ins. Co.*,  
15 331 F.3d 1122, 1133 (9th Cir. 2003); *see also Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 476  
16 (9th Cir. 1992).

17 If the sole ground for a motion to seal is that the opposing party (or non-party) has designated  
18 a document as subject to protection pursuant to the stipulated protective order, the movant must notify  
19 the opposing party (or non-party) at least seven days prior to filing the designated document. The  
20 designating party must then make a good faith determination if the relevant standard for sealing is met.  
21 To the extent the designating party does not believe the relevant standard for sealing can be met, it shall  
22 indicate that the document may be filed publicly no later than four days after receiving notice of the  
23 intended filing. To the extent the designating party believes the relevant standard for sealing can be met,  
24 it shall provide a declaration supporting that assertion no later than four days after receiving notice of  
25 the intended filing. The filing party shall then attach that declaration to its motion to seal the designated  
26 material. If the designating party fails to provide such a declaration in support of the motion to seal, the  
27 filing party shall file a motion to seal so indicating and the Court may order the document filed in the  
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1 public record.<sup>2</sup>

2 **IT IS ORDERED** that counsel shall comply with the requirements of Local Rule IA 10-5, the  
3 Ninth Circuit's decision in *Kamakana*, 447 F.3d 1172, and the procedures outlined above, with respect  
4 to any documents filed under seal. To the extent any aspect of the stipulated protective order may  
5 conflict with this order or Local Rule IA 10-5, that aspect of the stipulated protective order is hereby  
6 superseded with this order.

7 DATED: December 13, 2017

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11 NANCY J. KOPPE  
12 United States Magistrate Judge  
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27 <sup>2</sup> In the event of an emergency motion, the above procedures shall not apply. Instead, the movant  
28 shall file a motion to seal and the designating party shall file a declaration in support of that motion to seal  
within three days of its filing. If the designating party fails to timely file such a declaration, the Court may  
order the document filed in the public record.